

AN ORDINANCE BY

08-0 -0881

**AN ORDINANCE TO AUTHORIZE THE INSERTION OF SIDEWALK AND LANE CLOSURE PROVISIONS, REQUIREMENTS, AND FEES IN CHAPTER 138, ARTICLE III (CONSTRUCTION OR EXCAVATION IN THE RIGHT-OF-WAY), AS NEW CODE SECTION 138-75 AND IN APPENDIX B OF THE CODE OF ORDINANCES; AND FOR OTHER PURPOSES.**

**WHEREAS**, it has been discovered that former section 9-3041 of former Chapter 9 of the City of Atlanta Code of Ordinances dealing with "Environment and Streets" has inadvertently and mistakenly been removed from the City Code; and

**WHEREAS**, said section, entitled "Fees charged for permits which allow blocking or closing sidewalks or streets, etc." contained provisions related to street lane and sidewalk closures and fees to be charged for the issuance of permits; and

**WHEREAS**, there was no authority to cause the removal of said section; and

**WHEREAS**, the Department of Public Works has the authority and responsibility to regulate activities within the public right-of-way; and

**WHEREAS**, the current fees associated with the permitting of lane and sidewalk closures do not, in every instance, reflect the actual costs incurred by the City of Atlanta engineering and administrative staff; and

**WHEREAS**, it is necessary to reinstate the provisions of former section 9-3041 and to modify and, in subsections 138-75 (b) through (f), (l) and (o) increase the fees set out therein.

**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA, HEREBY ORDAINS, as follows:**

**Section 1:** That former Section 9-3041, as amended herein, shall be inserted into the Code of Ordinances as new section 138-75 to read as follows:

**Section 138-75 Fees charged for permits which allow blocking or closing sidewalks or streets; etc.**

(a) The applicant for any permit issued by the department of public works for closing, occupying, blocking or otherwise using sidewalks or streets for building construction, building repairs, material or equipment storage, movement of oversize vehicles or loads and other special purposes shall, upon receipt of such permit, pay to the city a permit fee as provided in this section.

(b) There shall be a ~~\$20~~ **\$35.00** fixed fee for all permits issued as provided in this section, unless otherwise provided herein.

B-12

(c) A variable permit cost for use of up to 100 linear feet of sidewalk and any portion of the adjacent curb lane shall be ~~\$10~~ \$15.00 per calendar day for the duration of the permit.

(d) A variable permit cost for use of 101 to 200 linear feet of a sidewalk and any portion of the adjacent curb lane shall be ~~\$15~~ \$30.00 per calendar day for the duration of the permit.

(e) A variable permit cost for use of 201 to 300 linear feet of a sidewalk and any portion of the adjacent curb lane shall be ~~\$20~~ \$45.00 per calendar day for the duration of the permit.

(f) A variable permit cost for use of over 300 linear feet of a sidewalk and any portion of the adjacent curb lane shall be ~~\$25~~ \$60.00 per calendar day for the duration of the permit.

(g) The variable permit cost for use of sidewalk space only shall be 40 percent of the variable permit cost as determined for paragraphs (c), (d), (e) and (f) of this section, based on the linear feet of sidewalk used.

(h) The variable permit cost for use of multiple lanes or full street closure shall be the cost of a single lane permit as established in paragraphs (c), (d), (e) and (f), multiplied by the number of marked traffic lanes encroached upon by the permitted use. Where no lane markings are used, a lane width of 10 feet shall be assumed for determining the permit cost.

(i) The variable permit cost for trenching or excavating within rights-of-way shall be \$25.00 per calendar day per lane for the duration of the permit.

(j) Each truck, trailer, crane, tractor, structure or similar device parked or placed within public rights-of-way contrary to established parking regulation and not within an area permitted, as provided by other portions of this section, shall be required to have from the department of public works a permit for such storage or parking. The cost of such permit shall be \$20.00 per day; however, the fixed fee of \$20.00 shall not be applied.

(k) A single trip permit for moving vehicles over city streets which exceed the legal length, width, height, or weight shall be \$20.00 for exceeding one (1) of the limitations and \$30.00 for exceeding more than one (1) of the limitation. If the department of public works determines that such vehicles or load, because of its size, must be moved at night or will require a special police escort, the variable permit cost shall be \$200.00. Permit charges required in this subsection may be waived if such oversized vehicle or load thereon is being used as part of or in preparation for a parade, festival or other such event.

(l) An annual multiple trip permit cost for moving vehicles which exceed the legal length, width, height or weight shall be ~~\$50.00~~ \$200.00.

(m) Minor routine maintenance of buildings, walls, signs, fences, trees or similar facilities which requires use of a sidewalk, ~~but does not prohibit pedestrian movement,~~ shall require a ~~no~~ permit ~~and~~ ~~or~~ permit fee.

(n) The commissioner of the department of public works shall make a determination on any question concerning conditions which require a permit and shall approve waivers of permit fees as provided for herein.

(o) The fee for a haul route permit shall be ~~\$20~~ \$45.00.

**Section 2:** That Appendix B: Fees, shall be revised, as necessary, to reflect the imposition of fees in accordance with Section 1 above.

**Section 3:** That all existing ordinances or parts of ordinances in conflict with this ordinance shall be waived for the purposes of this Ordinance only, and only to the extent of the conflict.

(b) *Conditions.* Permits for making excavations in streets shall provide that those excavations shall not be more than one (1) traffic lane in width at any place and shall not extend for more than two (2) blocks in length unless specifically approved. All such permits shall require a good and sufficient bond or insurance with the city as a named insured to save the city harmless for damages to person or property by reason of the enclosures or excavations.

(c) It shall be the duty of all persons doing any kind of work in the streets of the city such as paving, laying sewers, sidewalks and curbing, moving buildings or any other work that in any way obstructs free passage thereon, to notify the commissioner at least 96 hours before the work is commenced and on its completion. It shall be the duty of the commissioner to see that the provisions of this article are enforced, both as to the erection of barriers or enclosures and as to travel on the street by vehicles or otherwise during the time prohibited. It shall also be the duty of the commissioner to notify the department of public safety, Grady Memorial Hospital, the Metropolitan Atlanta Rapid Transit Authority and persons named by the mayor or his designee of the date and time the street will be closed.

(d) Closing of and excavations of streets shall not be permitted beginning Thanksgiving Day through the next following January 1 on major thoroughfares and streets within the designated fire limits of the city except for emergency purposes as authorized by the commissioner.

**Section 9-3038.1      Unlawful to block public streets and sidewalks without a permit.**

(a) It shall be unlawful for any contractor, public utility or person to block, or use for other than intended purposes, any portion of a public street or sidewalk of the City of Atlanta or to otherwise obstruct vehicular traffic or pedestrian traffic without having first obtained, from the City of Atlanta, a permit which shall state conditions which apply to the blockage or obstruction.

(b) Violation of the conditions stated in the permit required by this section or failure to obtain such permit shall constitute an offense and shall be punishable as provided under section 18-1008

of this code. (Ord. No. 1978-17, 3/21/78; Ord. No. 1987-08, 2/3/87)

*Amendment Note:* Ord. No. 1987-08, adopted 2/16/87, approved 2/23/87, amended section 9-3038.1 in its entirety by adding sidewalks to the areas governed by the section.

*Editorial Note:* Ord. No. 1978-17, 3/21/78 was codified above at the discretion of the editor.

**Section 9-3039      Use of streets in building operations; streets with two levels.**

(a) *Bearing Upon or Against Viaduct.* No portion of a building adjoining a viaduct shall bear upon or against the viaduct structure, but a space of not less than one (1) inch shall be left open between the sidewalk and the structure and then filled with an approved expansion joint material.

(b) *Responsibility for Damages.* Any and all damages to streets, on either level, or damage to bridge or viaduct structures, caused by the contractor or by his employees, must be repaired immediately at no cost to the city and to the satisfaction of the commissioner.

**Section 9-3040      Guarding of temporary excavations.**

All persons making an excavation in any street, sidewalk or public place for any purpose shall erect around the excavation a fence or barrier adequate to protect the public from the excavation. When the excavation is made across the sidewalk, or at a place used by pedestrians, a bridge shall be erected over the excavation sufficient for the safe passage of the public. All excavations shall be properly lighted at night as determined by the commissioner. The guarding and protection of excavations shall be in accordance with specifications promulgated by the commissioner and on file in the office of the commissioner.

**Section 9-3041      Fees charged for permits which allow blocking or closing sidewalks or streets; etc.**

(a) The applicant for any permit issued by the department of public works for closing, occupying, blocking or otherwise using sidewalks or streets

for building construction, building repairs, material or equipment storage, movement of oversized vehicles or loads and other special purposes shall, upon receipt of such permit, pay to the city a permit fee as provided in this section.

(b) There shall be a \$20 fixed fee for all permits issued as provided in this section, unless otherwise provided herein.

(c) A variable permit cost for use of up to 100 linear feet of a sidewalk and any portion of the adjacent curb lane shall be \$10 per calendar day for the duration of the permit.

(d) A variable permit cost for use of 101 to 200 linear feet of a sidewalk and any portion of the adjacent curb lane shall be \$15 per calendar day for the duration of the permit.

(e) A variable permit cost for use of 201 to 300 linear feet of a sidewalk and any portion of the adjacent curb lane shall be \$20 per calendar day for the duration of the permit.

(f) A variable permit cost for use of over 300 linear feet of a sidewalk and any portion of the adjacent curb lane shall be \$25 per calendar day for the duration of the permit.

(g) The variable permit cost for use of sidewalk space only shall be 40 percent of the variable permit cost as determined for paragraphs (c), (d), (e) and (f) of this section, based on the linear feet of sidewalk used.

(h) The variable permit cost for use of multiple lanes or full street closure shall be the cost of a single lane permit as established in paragraphs (c), (d), (e) and (f), multiplied by the number of marked traffic lanes encroached upon by the permitted use. Where no lane markings are used, a lane width of 10 feet shall be assumed for determining the permit cost.

(i) The variable permit cost for trenching or excavating within rights-of-way shall be \$25 per calendar day per lane for the duration of the permit.

(j) Each truck, trailer, crane, tractor, structure or similar device parked or placed within public rights-of-way contrary to established parking regulations and not within an area permitted, as provided by other portions of this section, shall be required to have from the department of public works a permit for such storage or parking. The cost of such permit shall be \$20 per day; however, the fixed fee of \$20 shall not be applied.

(k) A single trip permit for moving vehicles over city streets which exceed the legal length, width, height or weight shall be \$20 for exceeding one (1) of the limitations and \$30 for exceeding more than one (1) of the limitations. If the department of public works determines that such vehicle or load, because of its size, must be moved at night or will require a special police escort, the variable permit cost shall be \$200. Permit charges required in this subsection may be waived if such oversized vehicle or load thereon is being used as part of or in preparation for a parade, festival or other such event.

(l) An annual multiple trip permit cost for moving vehicles which exceed the legal length, width, height or weight shall be \$50.

(m) Minor routine maintenance of buildings, walls, signs, fences, trees and similar facilities which requires use of a sidewalk, but does not prohibit pedestrian movement, shall require no permit or permit fee.

(n) The commissioner of the department of public works shall make a determination on any question concerning conditions which require a permit and shall approve waivers of permit fees as provided for herein.

(o) The fee for a haul route permit shall be \$20. (Ord. No. 1987-43, Sec. 1, 5/22/87; as amended by Ord. No. 1988-60, Sec. 1, 12/16/88; Ord. No. 1992-09, Secs. 1-3, 4/8/92)

**Amendment Note:** Section 1 of Ord. No. 1987-43, adopted 5/18/87, approved 5/22/87, added section 9-3041. Sections 1, 2 of Ord. No. 1992-09, adopted 4/6/92, approved 4/8/92, amended this section by increasing the fees as follows: in (b), from \$17.50 to \$50; in (c), from \$8.75 to \$10; in (d), from \$12.25 to \$15; in (e), from \$15.75 to \$20; in (f), from \$19.25 to \$25; in (i), from \$17.50 to \$25 per lane; in (j), from \$5.25 to \$20; in (k), from \$8.75 to \$20, from \$17.50 to \$30, and from \$157.50 to \$200; and in (l) from \$43.75 to \$50. Section 3 added subsection (o).

**Editorial Note:** Section 1 of Ord. No. 1988-60, adopted 12/9/88, approved 12/16/88, purported to add a new section 9-3041. The editor has treated the ordinance as amending existing section 9-3041. The fees were increased as follows: in subsection (b), from \$10 to \$17.50; in (c), from \$5.00 to \$8.75; in (d), from \$7.00 to \$12.25; in (e), from \$9.00 to \$15.75; in (f), from \$11 to \$19.25; in (j), from \$3.00 to \$5.25; in (k), from \$5.00 to \$8.75, from \$10 to \$17.50, and from \$90 to \$157.50; and in (l), from \$25 to \$43.75. The ordinance also added the last sentence to subsection (j); deleted subsection (n), waiving fees for non-profit organizations; and redesignated subsection (o) as (n).

**Section 9-3042 through section 9-3050 reserved.**

**Part II: Legislative White Paper:** (This portion of the Legislative Request Form will be shared with City Council members and staff)

**A. To be completed by Legislative Counsel:**

**Committee of Purview:**

**Caption:**

**Council Meeting Date:**

**Requesting Dept.:**

**FAC Confirmed by:**

**B. To be completed by the department:**

**1. Please provide a summary of the purpose of this legislation (Justification Statement).**

***Example: The purpose of this legislation is to anticipate funds from a local assistance grant to purchase child safety seats.***

The purpose of this legislation is to amend code of ordinances former section 9-3041 to insert new section 138-75 to authorize the insertion of sidewalk and lane closure provisions, requirements and fees in Chapter 138, Article III (Construction or Excavation in the Right of Way).

**2. Please provide background information regarding this legislation.**

***Example: The task force of homelessness conducted a study regarding homelessness, its impact and consequences on the City. This resolution reflects the Mayor's desire to open a twenty-four hour center that will respond to the needs of the homelessness in Atlanta.***

It has been discovered that the former section 9-3041 of former chapter 9 of the code of ordinances has been inadvertently or mistakenly removed from the city code. The fees associated with issuing permits was in that section and the costs incurred for issuing the permit does not reflect the costs incurred by DPW.

**3. If Applicable/Known:**

- (a) Contract Type (e.g. Professional Services, Construction Agreement, etc):
- (b) Source Selection:
- (c) Bids/Proposals Due:
- (d) Invitations Issued:
- (e) Number of Bids:
- (f) Proposals Received:
- (g) Bidders/Proponents:
- (h) Term of Contract:

**4. Fund Account Center (Ex. Name and number):**

Fund: \_\_\_\_\_ Account: \_\_\_\_\_ Center: \_\_\_\_\_

**5. Source of Funds: *Example: Local Assistance Grant***

**6. Fiscal Impact:**

*Example: This legislation will result in a reduction in the amount of \_\_\_\_\_ to Fund Account Center Number \_\_\_\_\_.*

**7. Method of Cost Recovery:**

***Examples:***

- a. Revenues generated from the permits required under this legislation will be used to fund the personnel needed to carry out the permitting process.*
- b. Money obtained from a local assistance grant will be used to cover the costs of this Summer Food Program.*

**This Legislative Request Form Was Prepared By: Soraya Belgrave**

✓

**TRANSMITTAL FORM FOR LEGISLATION**

**TO: MAYOR'S OFFICE**

**ATTN: GREG PRIDGEON**

**Dept.'s Legislative Liaison:** Soraya Belgrave

**Contact Number:** 6002

**Originating Department:** Public Works

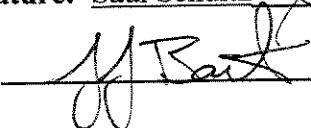
**Committee(s) of Purview:** Finance Executive

**Chief of Staff Deadline:** 4/30/08

**Anticipated Committee Meeting Date(s):** May 13-14, 2008

**Anticipated Full Council Date:** May 19, 2008

**Legislative Counsel's Signature:** Saul Schultz 

**Commissioner Signature:**  \_\_\_\_\_

**Chief Procurement Officer Signature:** \_\_\_\_\_

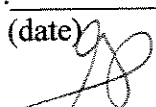
**CAPTION**

**AN ORDINANCE TO AUTHORIZE THE INSERTION OF SIDEWALK AND LANE CLOSURE PROVISIONS, REQUIREMENTS, AND FEES IN CHAPTER 138, ARTICLE III (CONSTRUCTION AND EXCAVATION IN THE RIGHT OF WAY), AS NEW CODE SECTION 138-75 AND IN APPENDIX B OF THE CODE OF ORDINANCES; AND FOR OTHER PURPOSES.**

FINANCIAL IMPACT (if any) N/A

Mayor's Staff Only

Received by CPO: \_\_\_\_\_  
(date)

Received by LC from CPO: \_\_\_\_\_  
(date) 

Received by Mayor's Office: Amc 5/1/08  
(date)

Reviewed by: \_\_\_\_\_  
(date)

Submitted to Council: \_\_\_\_\_  
(date)